

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 89-583-T - ORDER NO. 90-492 ✓

May 3, 1990

IN RE: Application of Budget Moving & Storage,) ORDER
Inc., 8A Cartee Ave., Greenville, SC) DENYING
29605, for a Class E Certificate of) APPLICATION
Public Convenience and Necessity.)

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed on November 14, 1989, by Budget Moving & Storage, Inc. (the Applicant) for a Class E Certificate of Public Convenience and Necessity to render motor freight service over irregular routes only as follows:

COMMODITIES IN GENERAL, AS DEFINED IN R.103-211(1); ALSO EXCLUDING BANK COURIER COMMODITIES AND COMMODITIES COMMONLY TRANSPORTED IN ARMORED VEHICLES: Between points and places in South Carolina.

HOUSEHOLD GOODS: Between points and places in South Carolina.

Subsequent to the initiation of this proceeding, the Commission Staff instructed the Applicant to cause to be published a prepared Notice of Filing in certain newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file the appropriate pleadings. The Notice of Filing was duly published in the State Register.

May 3 1990

PAGE 2

Petitions to Intervene were timely filed by Austin Moving and Storage Co., Inc. (Austin), Bland Moving and Storage Co., Inc. (Bland), Smith Dray Line and Storage Co. (Smith), Greenville-Spartanburg Moving and Storage Co. (G-S), American Van Lines (American), Carey Moving and Storage, Inc. (Carey), Southeastern Freight Lines (Southeastern), and Anderson Armored Car Service, Inc. (Anderson).

The Petition to Intervene filed by Anderson was withdrawn prior to the hearing.

Pursuant to notice duly given, a hearing was held at the Offices of the Commission on April 10, 1990, Chairman Caroline H. Maass presiding. The Applicant was not represented by counsel; Intervenor Southeastern was represented by F. Lee Prickett, Jr., Esquire; Intervenors Austin, Bland, Smith, G-S, American, and Carey were represented by David G. Ingalls, Esquire; and the Commission Staff was represented by H. Clay Carruth, Staff Counsel.

Testifying on behalf of the Applicant were: Lane Ward, President of Budget Moving and Storage, Inc. of Greenville, S.C.; Jean Osteen, Treasurer of Budget Moving and Storage, Inc. of Greenville, S.C.; and Calvin Osteen, part owner of Budget Moving and Storage, Inc. of Greenville, S.C.

Testifying on behalf of Intervenor Austin was John Austin, President of Austin Moving and Storage Co., Inc. of Greenville, S.C.

1. That the Applicant is incorporated, with ownership indicated in the following proportions: Lane Ward 50%, Calvin Osteen 25%, and Jean Osteen 25%.

2. That the President of the Applicant, Lane Ward, does not know the amount of the Applicant's paid in capital.

3. That Lane Ward is a principal of another incorporated motor carrier, which conducts interstate operations pursuant to authority granted by the Interstate Commerce Commission (ICC).

4. That Lane Ward was unwilling to testify as to reasons for applying for South Carolina intrastate authority as a different entity from that by means of which he holds interstate authority.

5. That Lane Ward was evasive and nonresponsive to questions about the operations of the Applicant, and would only cite "personal reasons" for applying for both household goods and general commodities authority.

6. That the Applicant furnished answers to Interrogatories which were neither correct nor filed with the Commission as required by law.

7. That Jean Osteen had no recollection of Interrogatories having been served upon the Applicant or of the responses she made on behalf of the Applicant to those Interrogatories.

8. That Calvin Osteen gave hostile and evasive answers to questions concerning previous applications to the Commission for authority in which he has been involved.

9. That Calvin Osteen has no familiarity with the capital of the Applicant.

CONCLUSIONS OF LAW

Section 58-23-330, supra, imposes upon an applicant the burden of demonstrating that it is fit, willing and able to appropriately perform the proposed motor carrier services. The Statute imposes upon any intervenor(s) the burden of demonstrating that the public convenience and necessity is already being served by those certificated motor carriers authorized to provide the motor carrier services for which the applicant seeks authority.

Based on the facts found hereinabove, as well as the evidence in the entire record herein, the Commission finds and concludes that the Applicant has not demonstrated its fitness, willingness and ability to appropriately perform the proposed motor carrier services.


Therefore, the Commission reaches the legal conclusion that the Applicant has not demonstrated its fitness to appropriately perform the proposed motor carrier services as required by §58-23-330, supra.

IT IS THEREFORE ORDERED:

1. That the Application of Budget Moving and Storage, Inc. for a Class E Certificate of Public Convenience and Necessity be, and hereby is, denied.

2. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)